

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS :	Brand <i>et al.</i>	CONFIRMATION NO. :	6830
SERIAL NUMBER :	10/517,135	EXAMINER :	Chandra, Gyan
FILING DATE :	February 17, 2006	ART UNIT :	1646
FOR :	A PHARMACEUTICAL COMPOSITION CONSISTING OF RAPAMYCINE AND GASTRIN 17(LEU15) AND A METHOD FOR TREATING DIABETES		

**Mail Stop: Issue Fee**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**UNDER 37 C.F.R. §1.705(d)**

Applicants request this request for reconsideration of patent term adjustment for the above-reference. Also enclosed is the two-hundred dollar fee as required by 37 C.F.R. § 1.18(e).

Applicants received a Notice of Patent Term Adjustment accompanying a Notice of Allowance and Fees Due from the U.S. Patent and Trademark Office, dated December 8, 2008, which stated that the Patent Term Adjustment under 35 U.S.C. 154(b) to date is 8 days. The determination of this 8 day term is in error because the USPTO failed to properly account for the delays that occurred before the date that was three years after the actual filing date of the instant application, pursuant to 35 U.S.C. § 154(b)(1)(B). The correct patent term adjustment for the patent issuing from the instant application is at least **565** days.

The '135 application was filed on December 7, 2004 as a US national application of PCT/US03/18377. The '135 application will presumptively issue as a patent no later than Tuesday, June 16, 2009, which is the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of the Notice of Patent Term Adjustment.

Under 35 U.S.C. § 154(b)(1)(A), the number of days attributable to USPTO examination delay ("A Delay") is **154** days.

Under 35 U.S.C. § 154(b)(1)(B), the number of days between the date that was three years after the commencement of the US national application (December 7, 2007) and the

estimated date of patent grant (June 16, 2009) is **557** days.

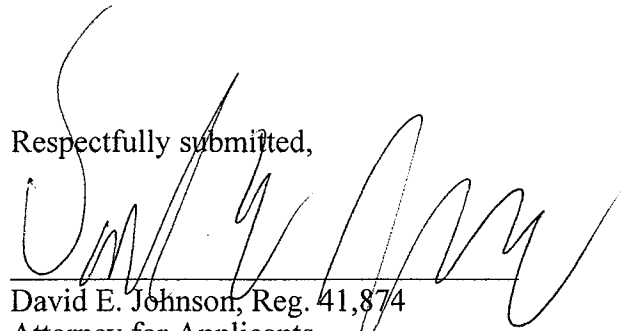
Under 35 U.S.C. § 154(b)(2)(C), the number of days of Applicant delay is **146** days.

35 U.S.C. § 154(b)(2)(A) provides that “to the extent that periods of delay attributable to grounds specified in paragraph [b](1) overlap, the period of any adjustment... shall not exceed the actual number of days the issuance of the patent was delayed. The overlap between the “A Delay” period and the “B Delay” period in the prosecution of the above-referenced application is 0 days.

Applicants thereby petition the U.S. Patent and Trademark Office for reconsideration of the patent term adjustment calculation of  $154 + 557 - 146$ , or **565 days**, based on the facts provided herein.

Please charge any fees that may be due, or credit any overpayment of same, to Account No. 50-0311, Attorney Ref.: 24492-510NATL.

Respectfully submitted,



David E. Johnson, Reg. 41,874

Attorney for Applicants  
MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY and POPEO, P.C.

Address all written correspondence to

**Customer no.: 30623**

Tel: (617) 542-6000

Fax: (617) 542-2241

Date: March 9, 2009

4560664v.1